

### **REMARKS**

Claims 1-10, 18-20, and 22 remain in the application. Claims 1, 18, and 22 are the only claims in independent form. The present claims have been amended in order to clarify the present invention and to place the present application in condition for allowance.

According to the outstanding Office Action, claims 1, 2, 5, 6, 9, 10, 18-20, and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,315,390 to Billeb (hereinafter "the '390 patent"). According to the Office Action, the '390 patent discloses a single disposable apparatus for collecting and disposing liquid including a bed pan vessel having an inner surface and absorption means fixedly attached to and disposed on the entire inner surface for absorbing and collecting liquid within the vessel, wherein the vessel and absorption means form a disposable single unit. Additionally, the Office Action holds that the method of using the apparatus disclosed in the '390 patent is inherently performed by a normal operation of the apparatus; hence, claims 18-20 are anticipated by the '390 patent.

As is well established, "anticipation under 35 U.S.C. §102 requires that disclosure in a single piece of prior art of each and every limitation of a claimed invention." Apple Computer, Inc., v. Articulate Systems, Inc., 234 F3d 14, 57 USPQ 2d 1057 (Fed. Cir. 2000), citing Electromed. Sys. SA v. Cooper Life Sciences, 34 F3d 1048, 32 USPQ 2d 1017, 1019 (Fed. Cir. 1994) (emphasis added). Further, anticipation of the claims can be found only if a reference shows exactly what is claimed; where there are differences between the disclosures of the references and the claims, a rejection must be based on obviousness under §103. Titanium Metals Corp. v. Banner, 778 F2d 775, 227 USPQ 773 (Fed. Cir. 1985). Additionally, "[f]or a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference." In re Bond, 910 F2d 831, 15 USPQ 2d 1566 (Fed. Cir. 1990) (emphasis added).

In response to the outstanding rejection, Applicant has amended pending independent claims 1 and 22 to distinctly claim a single, disposable apparatus wherein the bed pan vessel includes a seating surface and an inner surface. Such a claimed apparatus is not at all disclosed in the '390 patent. The '390 patent is merely a disposable bag for collecting liquids and not a bed pan vessel. The present invention as set forth in the pending independent claims is a bed pan vessel including a seating surface that can support the weight of the user. Support for such a limitation can be found in the specification, at page 4, lines 14-16 and page 5, lines 7-8. The apparatus disclosed in the '390 patent may accomplish a similar function of collecting liquids as the presently claimed invention; however, the presently claimed invention is structurally different from the apparatus disclosed in the '390 patent. Additionally, the presently claimed invention has an added function of being able to support the weight of the user through the seating surface. This results in preserving the shape and integrity of the apparatus. Since the presently claimed invention is structurally different from the apparatus disclosed in the '390 patent, the presently claimed invention cannot be anticipated by the '390 patent. Moreover, since the presently claimed invention is different, the method of using the apparatus is inherently and explicitly different from the method set forth in the '390 patent. Reconsideration of the rejection of the claims is respectfully requested.

Claims 1, 2, 4-6, 9, 10, 18-20, and 22 are also rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,613,123 to Langstrom (hereinafter, "the '123 patent"). As set forth in the outstanding Office Action, the '123 patent discloses a single disposable apparatus for collecting and disposing liquids including a bed pan vessel having an inner surface; and absorption means fixedly attached to and disposed on the entire surface for absorbing and collecting liquid within the vessel, wherein the vessel and the absorption means form a single disposable unit. Additionally, the Office Action holds that the method of using the apparatus is inherently performed by normal operation of the apparatus.

In response thereto, Applicant has amended the pending independent claims to specifically include a limitation to the bed pan vessel (i.e., including a seating surface). The apparatus disclosed in the '123 patent not only is not a bed pan vessel, but also does not have a seating surface. According to the '123 patent, the vessel is a plastic bag that merely encloses an absorbing material (see, Figures 1-5 and column 2, lines 39-54). The apparatus disclosed in the '123 patent cannot support the weight of the user in any manner. Instead, the user must hold the apparatus in a position in order to collect any liquid discharged by the user. Again, a structural difference exists for the presently claimed invention and this limitation is set forth in the pending independent claims. Hence, the presently pending claims are patentable over the apparatus disclosed in the '123 patent. Moreover, the method of using the presently claimed invention is also different since the apparatus, as set forth in the pending independent claims, is different from the device disclosed in the '123 patent. Hence, reconsideration of the rejection is respectfully requested.

Claims 1-3, 5-8, 18-20, and 22 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,070,277 to Thomas (hereinafter, "the '277 patent"). According to the Office Action, the '277 patent discloses a single disposable apparatus for collecting and disposing liquids including a bed pan vessel having an inner surface and absorption means fixedly attached to and disposed on the entire inner surface for absorbing and collecting liquids within the vessel, wherein the vessel and the absorption means form a disposable single unit.

In response thereto, the '277 patent does not disclose the apparatus as described in the outstanding Office Action. The '277 patent discloses a waste receptacle bag for receiving urine, fecal matter, and vomit for later disposal. The waste receptacle bag includes an annular rim portion that extends along the open top of the bag. "In use, a user unfolds the bag and places the rim portion against his or her urogenital and perineal area to urinate and defecate. Once done, the protection strip is removed from the adhesive strip and the ceiling flap is folded up over the rim portion, as shown in Figure 2." (See, column 4, lines 39-44). Hence, a

waste receptacle bag is disclosed and not a bed pan vessel. Although the figure appears to disclose a solid bed pan vessel, careful reading of the detailed description and brief description of the drawings clearly contradict the disclosure of a bed pan vessel. The apparatus disclosed in the '277 patent is just a waste bag. Such a waste receptacle bag cannot be used by an individual to support his or her weight. Instead, the individual must use the apparatus disclosed in the '277 patent by supporting his or her own weight by some other means. In contradistinction, the presently claimed invention is a single, disposable apparatus including a bed pan vessel having both a seating surface and an inner surface and an absorption mechanism fixedly attached and disposed on the entire surface of the inner surface thereon. The presently claimed invention is not a waste bag; instead, it is an apparatus that can support the weight of the individual user. Reconsideration of the rejection is respectfully requested.

Pending claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the '390 patent. In response thereto, the presently claimed invention is patentably distinct over the '390 patent as set forth in the above arguments. Again, the '390 patent merely discloses an apparatus that cannot support the weight of the individual user. In contradistinction, the presently claimed invention includes a bed pan vessel having a seating surface that can support the weight of the individual user. Since the prior art reference does not teach all the claims limitations, a *prima facie* case of obviousness has not been established. Hence, reconsideration of the rejection is respectfully requested.

Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the '390 patent in view of U.S. Patent No. 5,455,972 to Williams (hereinafter, "the '972 patent"). Again, as set forth above, the presently claimed invention is patentably distinct over the '390 patent. Additionally, the presently claimed invention is patentably distinct over the '972 patent. The '972 patent discloses a bag that can be constructed from polyethylene or other plastic material impervious to or at least not readily permeated by liquid, such as urine and the like (column 2, lines 26-33). The bag completely encloses and surrounds a bed pan

(see, Figures 3-5, column 2, lines 60-67). Moreover, in order to disclose of the waste collected within the bag, the bag with its contents absorbed by the pad is removed from the bed pan by inversing or inverting the bag to the obverse side, i.e., turning the bag inside out so that the interior surface is pulled over the exterior surface including the pouch (see, Figure 4, column 3, lines 1-7).

In contradistinction, the presently claimed invention is completely disposable and does not involve the use of any type of bag surrounding the outer surface of the vessel thereon. Additionally, because the absorption mechanism is disposed on the entire inner surface of the vessel, any type of spillage that may occur during transportation of the bed pan apparatus will be prevented. The absorption mechanism of the present invention is formfitting on the inside or inner surface of the bed pan vessel and does not enclose the entire bed pan whatsoever. Moreover, the bed pan vessel of the present invention can support the weight of the individual user. This structural difference does not exist in the '390 patent as discussed above. Therefore, no *prima facie* case of obviousness has been established and claims 7 and 8 are patentable over the '390 patent in view of the '972 patent. Reconsideration of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the '123 patent. According to the outstanding Office Action, the '123 patent does not show that the vessel is an oval-shaped receptacle, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide any particular shape for the receptacle as desired. In response thereto, the apparatus disclosed in the '123 patent, as discussed above, is not at all a bed pan vessel that can support the weight of the individual user. Instead, the apparatus disclosed in the '123 patent is merely a waste collecting receptacle that must be held in place by the user. Again, since the prior art reference does not teach or suggest all of the claim limitations, as set forth in pending claims 1 and 22, a *prima facie* case of obviousness has not been established. Hence, reconsideration of the rejection is respectfully requested.

Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the '123 patent in view of the '277 patent. In response thereto, the presently claimed invention is patentably distinct over both cited prior art references as discussed above. Again, the '123 patent discloses an apparatus that does not include a seating surface as set forth in the presently pending claimed invention. Moreover, the '277 patent is not at all a bed pan vessel including a seating surface. Instead, the apparatus disclosed in the '277 patent is merely a waste receptacle bag. The '277 patent does not include a seating surface for supporting the weight of the individual. Therefore, the presently claimed invention is patentably distinct over the cited prior art references since a *prima facie* case of obviousness has not been established. Reconsideration of the rejection is respectfully requested.

Claim 4 is also rejected under 35 U.S.C. §103(a) as being unpatentable over the '277 patent. As set forth above, presently pending claim 4 includes the limitation of a seating surface. Since the presently claimed invention is patentably distinct over the prior art, reconsideration of the rejection is respectfully requested.

Finally, claims 9 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the '277 patent in view of GB 2224522 to Stevens (hereinafter, "the '522 patent application"). The presently claimed invention is patentably distinct over the '277 patent as set forth in the above arguments. With regard to the '522 patent application, the apparatus disclosed in the '522 patent application is for collecting liquid including a vessel and absorption means. The apparatus is a disposable liner that contains liquid absorbent material provided by a pad of cellulose wadding. The absorbent pad is adhered to the inner side of the liner shaped generally to fit the bottom of a toilet receptacle when the liner is fitted therein (see, page 2, lines 3-6). The apparatus disclosed in the '522 patent application is an apparatus having an absorption mechanism lined on the bottom portion of the receptacle therein. There is no absorption mechanism or pad located or situated on the sides of the liner in order to prevent any type of spillage that may

occur during transportation or any other similar movement. There is no means for preventing the spillage of any type of liquid from within the apparatus disclosed in the '522 patent application.

In contradistinction, the presently pending claims, as amended, claim an apparatus including a bed pan vessel having a seating surface and an inner surface, and an absorption mechanism completely lining and covering the inner surface of the bed pan vessel. This provides an advantage over the cited prior art reference and thus is not anticipated by either the '123 patent or the '277 patent. Since a *prima facie* case of obviousness has not been established, reconsideration of the rejection is respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependent upon the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above. The prior art references do not disclose the characterizing features of the independent claims discussed above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In conclusion, it is respectfully submitted that the presently pending claims are in condition for allowance, which allowance is respectfully requested.

Applicant respectfully requests to be contacted by telephone if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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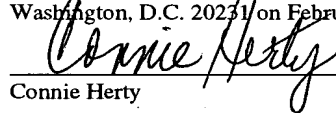


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Connie Herty



**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

1. (Amended) A single, disposable apparatus for collecting, disposing, and measuring liquids, comprising:

a bed pan vessel including a seating surface and an inner surface;  
and

absorption means fixedly attached to and disposed on all of said inner surface of said vessel for absorbing and collecting liquids within said vessel, wherein said vessel and said absorption means form a disposable single-unit apparatus.

22. (Amended) A disposable, single-unit bed pan vessel including a seating surface and an inner chamber; and absorption means fixedly secured and disposed entirely within said inner chamber for absorbing liquids.